

Message Text

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PAGE 01 VIENNA 07810 261530Z

ACTION SCS-03

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FM AMEMBASSY VIENNA

TO SECSTATE WASHDC 3079

LIMITED OFFICIAL USE VIENNA 7810

EO 11652: N/

TAGS: CARR

SUBJ: ARRESTEE AND PRISONER SERVICES: DEPORTATION OF PETTY

NARCOTICS OFFENDERS

REF: STATE 194251

1. WE TOOK UP SUBJECT WITH RESPONSIBLE OFFICIALS IN VIENNA PROVINCIAL CRIMINAL COURT AND FEDERAL MINISTRY OF INTERIOR WITH VIEW TO REVIEWING HOST GOVERNMENT LAWS AND PRACTICES WITH REGARD TO DEPORTATION/EXPULSION OF ALIEN PETTY OFFENDERS AND MADE PERTINENT POINTS REGARDING USG ATTITUDES ON SUBJECT.

2. SUMMARY OF SITUATION OBTAINING IN AUSTRIA AS FOLLOWS:

(A) AUSTRIAN LAW DOES NOT PROVIDE FOR DEPORTATION/EXPULSION OF ANY ALIEN PETTY OFFENDER AS ALTERNATIVE TO PROSECUTION. UNDER NEW AUSTRIAN LAW THAT WENT INTO EFFECT IN JANUARY 1975, HOWEVER, PETTY FIRST TIME OFFENDERS ARE NOT NORMALLY TAKEN INTO CUSTODY PENDING TRIAL. SENTENCING USUALLY RESULTS IN FINES OR SUSPENDED SENTENCES RATHER THAN JAIL TERM. FIRST-TIME PETTY NARCOTICS OFFENDERS FOUND IN POSSESSION OF NO MORE THAN ONE WEEK'S SUPPLY OF DRUGS FOR PERSONAL USE ARE NOT PROSECUTED IF THEY VOLUNTARILY SUBMIT TO WITHDRAWAL TREATMENT, OR COURT APPOINTED PHYSICIAN DECLARES THEM TO BE NON-ADDICTS.

(B) THE PRACTICE IT APPEARS THAT AUSTRIAN POLICE DO NOT OFTEN ARREST NON-AUSTRIAN FIRST-TIME OFFENDERS FOUND IN POSSESSION OF SMALL SUPPLY OF DRUGS FOR PERSONAL USE.

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SUCH PERSONS ARE USUALLY QUESTIONED AND RELEASED AND ARE NOT PREVENTED FROM DEPARTING AUSTRIA.

SUBSEQUENTLY REPORT IS MADE TO COMPETENT COURT WHICH MAY THEN EITHER PLACE NAME OF PETTY OFFENDER ON AUSTRIAN LOOKOUT/WANTED LIST AND DISCONTINUE ACTIVE PROCEEDINGS PENDING REAPPEARANCE OF OFFENDER IN AUSTRIA OR DEACTIVATE CASE EVEN WITHOUT PLACING NAME OF OFFENDER ON WANTED LIST.

3. WE FIND AUSTRIAN POSITION TO BE HUMANE, PRACTICAL
AND CONSISTENT WITH USG VIEWS STATED REFTEL. WE THINK
IT WOULD BE SERIOUS MISTAKE, HOWEVER, TO PUBLICIZE
AUSTRIAN LENIENCY WITH REGARD TO "SMALL-TIME" OFFENDERS
AS IT MIGHT PROVE COUNTER-PRODUCTIVE BY (A) CAUSING
EMBARRASSMENT TO GOA WITH DOMESTIC DEMANDS FOR
TOUGHENED STANCE AND (B) IDENTIFYING VIENNA AS ATTRACTIVE
PLACE "TO DO ONE'S THING" WITH IMPUNITY.BORG

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Message Attributes

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Decapton Note:
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Disposition Approved on Date:
Disposition Case Number: n/a
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